Van W Northern
NORTHERN LAW FIRM
112 W. 8th Ave., Suite 400
Amarillo, Texas 79101
SBN: 15101100
(806) 374-2266, (806) 374-9535 FAX
ATTORNEY FOR RALPH LYLE CRUM

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

IN RE:	§	
RALPH LYLE CRUM,	§	Case No. 08-20297-RLJ-7
Debtor.	§	Chapter 7
	§	
	§	Hearing Date: September 11, 2008
	§	Hearing Time: 1:30 p.m.

DEBTOR'S RESPONSE TO RANDI L. CRUM'S OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Ralph Lyle Crum, Debtor herein, and in response to Randi L Crum's Objection to Debtor's Claim of Exemptions (hereafter,"Movant") and would show the court as follows:

1. Admit.

2. Admit.

3. Deny. Debtor has this date (or will as soon as possible) amend his exemptions to claim federal exemptions under 11 U.S.C. 522(d)(12) and/or 522(d)(10)(E). See *Rousey v Jacoway,* 544 U.S.__ 161 L.Ed. 2d 563, 125 S. Cd. (2005), holding that IRA's may be exempted by Debtor under Section 522(d)(10)(E). This amendment renders this allegation moot. Additionally, to the extent Debtor's interest in said funds were founded in, or derived from, an ERISA qualified plan, such are properly characterized as not part of the bankruptcy estate, under 11 U.S.C. Section 541(c)(2) and 29 U.S.C. 1056(d)(1), which prohibit creditors of ERISA participants such as Debtor from attaching or garnisheeing the funds and benefits of the plan. (See the ruling in *Patterson v Shumate,* 504 U.S. 753, 119 L.Ed. 2d 519, 112 S.Ct. 2242

(1992), confirming that such ERISA funds are not part of the bankruptcy estate and remain the protected and separate property of the Debtor in much the same manner as exempt property) Debtor also claims the protection of 11 U S.C. 522(b)(3)(C), which protects qualified retirement funds and IRA's such as that of Debtor in Schedule B and C filed herein.

4. Deny. Debtor has, or will shortly amend his exemptions, claiming federal exemptions rendering this allegation moot.

5. Deny. These allegations are rendered moot by the amended Schedule C filed this date or to be filed soon hereafter. Debtor incorporates the allegations of paragraph 3 above as if set forth at length. The Texas statute recited in Movant's pleadings are not applicable when federal exemptions, and non-bankruptcy protection is utilized as in paragraph 3 above, and in any event, are defeated by the supremacy clause of the United States Constitution. Additionally, all of the amounts paid into the exempt plans were gradually accrued, far before any intention of bankruptcy was formed, or knowledge of insolvency. By federal law, Debtor is allowed 60 days to roll over the funds in question into other qualified IRA's or plans, and allowed full protection from his creditors under the analysis set forth in paragraph 3, above.

6. Debtor requests attorney's fees which were reasonable and necessary to defeat the Objection of Randi L. Crum.

WHEREFORE, PREMISES CONSIDERED, Debtor prays that the objection of Randi L. Crum be denied, for declaratory relief, for an award of attorney's fees, and for such other relief to which he may be entitled at law or in equity.

Respectfully submitted,

NORTHERN LAW FIRM
112 W. 8th Ave., Suite 400
Amarillo, Texas 79101
Tel. (806) 374-2266
Fax. (806) 374-9535

Van W. Northern
State Bar No 15101100

Attorney for Debtor

CERTIFICATE OF SERVICE

The undersigned certifies that he has on the date shown below transmitted a true copy of the foregoing document to the following parties in interest by electronic notification via the court's electronic case filing system or by regular mail on the 27th day of August, 2008:

Kent D. Ries
600 S. Tyler, Suite 1300
Box 12058
Amarillo, Texas 79101
Chapter 7 Trustee

Cole Young
Templeton, Smithee, Hayes,
Heinrich & Russell, L.L.P.
P.O. Box 15010
Amarillo, Texas 79105
Attorney for Movant, Randi L. Crum

Eddie R. Jimenez
Pite Duncan, LLP
525 E. Main Street
P.O. Box 12289
El Cajon, California 92022-2289

U. S. Trustee
1100 Commerce Street, Room 9C60
Dallas, Texas 75242

Van W. Northern